IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2018 OF 2005

Godrej & Boyce Mfg. Co.
Ltd., & Ors. .. Petitioners.

vs.

The Municipal Corporation of Greater
Mumbai & Ors. .. Respondents.

Mr. Harendra Toor i/by Mr. M.G. Gawade
for petitioners.
Mrs. A.K. Savla for Respondents.

Coram: J.N. PATEL &,
S.C. DHARMADHIKARI, JJ.
Date: 5th February, 2007.

P.C.

. This petition has been filed impugning two bills dated 15.3.2005 which are annexed as Exhibits "A" and "B" under which the respondent Municipal Corporation has demanded payment of Rs. 6,87,038/- for the period from 1.4.2004 to 30.9.2004 and Rs. 17,50,563/- for the period from 1.10.2004 to 31.3.2005. During the pendency of the petition a further affidavit of one Mr. Kamlapurkar has been filed on behalf of the

petitioner also challenging another bill of demand which is annexed as Exhibit "B" to the additional affidavit for the period 1.4.2005 to 30.9.2005 for the sum of Rs. 25,63,324/-

2. The main grievance of the petitioners appears to be that the respondent Corporation without hearing their clients in the matter of assessment have proceeded to issue the bill of demand for recovery of taxes which is illegal and, therefore, the Court should quash the impugned bills and till the complaint filed by the petitioner is decided and proper assessment is made, no recovery of taxes under the bill of demand should be permitted.

3. It has been pointed out to this Court that in so far as the first bill which is annexed as Exhibit "A" the complaint lodged is Exhibit "F" which is at page 33. In respect of the second bill which is annexed as Exhibit "B", the complaint lodged is Exhibit "H" page 36. In respect of the additional bill which is now challenged by further affidavit at Exhibit "B" at page 56, the learned counsel for the petitioner after seeking instructions states that complaint has been filed but copy of the same has not been annexed to the petition and he has no detailed instructions in the matter.

4. On the other hand, it is the contention of the

learned counsel for the respondent Corporation that in spite of repeated opportunities being given to the petitioners, the petitioners have not responded and in all five opportunities in the matter have been given.

5. In our view, it will be proper that the petitioner exhausts remedies available to the assessee under the Mumbai Municipal Corporation Act, 1888 rather than invoking the extra-ordinary jurisdiction of this Court for seeking quashing of the bill of demand. If the petitioners choose not to prosecute the complaint, the Corporation cannot be blamed for processing the matter. On the other hand we are surprised that the Corporation rather than proceeding further to recover the dues have been repeatedly sending notices to the petitioners for hearing which in ordinary course is not necessary. If an assessee does not respond in the matter of a complaint lodged by him challenging the assessment, nothing prevents the respondent Corporation from proceeding ex-parte.

6. We, therefore, do not find any merit to the challenge. Petition stands dismissed.

(J.N. Patel, J.)

(S.C. Dharmadhikari, J.)